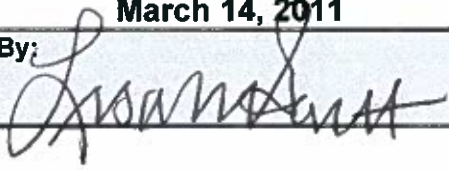




*County of Los Angeles*  
*Department of Human Resources*  
**POLICIES, PROCEDURES, AND GUIDELINES**

<b>Subject:</b>  <b>RETURN-TO-WORK</b>	<b>Policy Number:</b> <b>601</b>	<b>Page(s):</b> <b>8</b>
	<b>Effective Date:</b> <b>March 14, 2011</b>	
	<b>Approved By:</b> 	

## **POLICY**

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All departments are required to develop, implement, and maintain a Return-to-Work Program. The program must manage efforts of returning injured or ill employees to suitable employment to minimize the effects of employees' disabilities, reduce the costs associated with employees' lost time, comply with anti-discrimination laws and comply fully with all applicable MOU(s) and Los Angeles County Employee Relations Ordinance 5.04.040.

The head of each department or institution is responsible for developing and implementing an effective Return-to-Work Program adapted to the department's or institution's specialized needs. In pursuing this directive, it is the duty of the department or institution heads to develop return-to-work policies and procedures and identify those responsible for implementing them.

## **GUIDELINES**

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Specific guidelines relating to return-to-work processes, file management, medical certifications, leaves of absence, the return-to-work self-assessment tool, and other subjects exist as distinct policies and/or training materials. More information on the Return-to-Work Program can be found at <http://ceo.lacounty.gov/mpn> under the "Return-to-Work Unit" link.

The Return-to-Work Desk Reference Manual contains protocols to assist County departments in improving their programs. The protocols are as follows:

- Interactive Process Meeting Return-to-Work Usual and Customary Work Hardening Transitional Assignment Agreements (WHTAA) Conditional Assignment Agreements (CAA)
- Return-to-Work Modified/Alternative
- Countywide Job Search
- Return-to-Work Voluntary Demotion
- Short-Term Disability

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- Long-Term Disability
- Expired Medical Certification
- Medical Release (CSR 9.08)
- Disability Retirement

In addition, the manual includes a RTW process timeline, standardized forms, letter templates, and interactive process meeting documentation.

## **PROCEDURES**

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### **Return-to-Work Program**

An employee who is disabled due to injury or illness or is otherwise unable to return to work for a medical reason and needs reasonable accommodation to perform the essential functions of the position may be placed in the department's Return-to-Work Program. The objective of the Return-to-Work Program is to return the employee to productive work as soon as feasible after his/her injury or illness.

The cornerstone of the program is appropriate, prompt, interactive communication with the employee, and the physician when appropriate. The purpose of communication with the employee and physician is to explore any potential reasonable accommodation that could be made to allow the employee to return to work. The purpose of the communication with the treating physician is to inform the physician about the physical demands of the employee's usual and customary assignment.

If the usual and customary assignment requires physical or mental demands that are not compatible with the work restrictions of the employee, the employee's supervisor, in conjunction with the return-to-work staff, will explore providing the employee a work hardening transitional assignment compatible with the work restrictions. This temporary assignment can last until the employee's medical condition has reached a permanent and stationary status. The supervisor and departmental return-to-work staff will review and update the work hardening transitional assignment every twelve weeks with the employee. The work hardening assignment should be a meaningful and productive assignment within the usual work group of the employee. If this cannot be arranged, a department should explore a work hardening transitional assignment in another work area in the same classification or comparable classification with Y rating if necessary.

To accomplish the goal of return-to-work, the Americans with Disabilities Act (ADA) and Fair Employment and Housing Act (FEHA) require the employer to engage in a timely, good faith, interactive process with an employee with a known disability to explore effective reasonable accommodations for the employee. When an employee is determined to be permanent and stationary or to have reached maximum medical improvement with restrictions that limit the employee's ability to return to their usual and customary position, the department shall perform a reasonable accommodation evaluation. As part of the evaluation process, the department shall define the essential

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functions of the job, clarify work restrictions, research and evaluate possible accommodations, and hold timely good faith interactive processes with the employee.

The department shall be proactive at every stage of the return-to-work process. This means one or more persons in a position of supervision or management, including the departmental human resources office, must communicate directly and openly with the employee in an effort to determine effective reasonable accommodations. Such interactions shall be timely and documented. It may be necessary to conduct multiple interactive process meetings with employees to reach or show a good faith effort to accommodate.

There are a number of outcomes for the employee once his or her status is permanent and stationary, most of them involving the employee's return to work. For placement in any work assignment, the employee must be able to perform the essential duties of that job. Options for outcomes include:

- Return to his or her usual and customary assignment with no restrictions.
- Return to his or her usual and customary assignment with reasonable accommodation for any medically necessary restrictions.
- Assignment and placement in a different and vacant assignment where the employee is qualified to perform the essential duties of the job with or without reasonable accommodation for any medically necessary restrictions.
- Interdepartmental assignment and placement, taking into consideration any medically necessary restrictions and after exhausting all options for internal placement.
- Disability retirement for those employees whose retirement plans have such a provision (if the employee meets the requirements of the plan).
- Medical separation of the employee from County employment.

The intent of the Return-to-Work program is to resolve the employee's situation. The County, the public, the department and the employee benefit when the employee is able to fill a funded position and to perform the duties necessary to meet the public need. Department management, supervisors, employees and treating physicians will work with the department's Return-to-Work staff and Chief Executive Office Risk Management in order to determine an effective, timely and permanent resolution.

### **Return-to-Work File Management**

Return-to-work files must be properly organized and maintained. The file must include the Employee Profile form (Appendix A) and Activity Sheet (Appendix B) on the inside front cover. All incoming mail must be sorted in a timely manner, placed in the proper files and acted on appropriately. Documentation should be filed in a chronological manner to allow for easy handling of the file and secured in the file. Immediate corrective action should be implemented to ensure that medical certifications are

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current, plans of action are in place, and diary systems are implemented to indicate when future action must be taken.

### **Medical Certifications**

For each absence, two medical certifications may be required. The first should be submitted as soon as practicable and documents that the employee is unable to work. It also should state how long the employee is expected to be off work. The second statement may document that the employee is now able to return to work and may contain work restrictions.

The medical certification must:

- Be obtained from the employee or the treating physician immediately following determination that the employee is being placed off work;
- List the dates of absences and include a statement that the employee was unable to work for that specific period because of functional limitations on the employee's capacity to work;
- Be signed by a licensed physician or licensed practitioner;
- Be presented by the employee to the supervisor on the first day back to work authorizing the release of the employee to return to work, including any work restrictions.

The Supervisor must not ask for the employee's medical diagnosis or other protected health or personal information. Departments must ensure that proactive efforts are underway to manage medical certification expirations. If the employee's medical certification has expired, the department should contact the employee to obtain a current medical certification. This contact should typically be made by phone, by First Class mail (indicate on letter that this was sent by First Class mail), and by certified mail (indicate on letter how it was sent). Exceptions to this process may apply but must be clearly documented in the file.

Where appropriate, the department should contact the employee to offer an interactive process meeting to discuss any reasonable accommodations that could be made.

### **Leave of Absence Without Pay**

Under Civil Service Rule 16.02, Leaves of Absence Without Pay, each Department Head may grant a leave of absence from regular duties, without pay, for recovery from a prolonged illness or injury. This approval must be documented in the employee's return-to-work file. When the leave is for longer than twelve months, it must be approved by the Director of Personnel.

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Each Department Head should evaluate such leaves of absence, and corresponding approvals, within the department. If an employee has been on unpaid leave for twelve (12) weeks or more, and there is no associated workers' compensation claim (industrial accident [IA]) resulting in the leave, the department should offer to conduct an interactive process meeting with the employee to determine if the department can reasonably accommodate the employee in the future. The CEO and/or the Department of Human Resources (DHR) will monitor departmental approval of these leaves of absence.

**Interactive Process**

When employees are off work due to a known disability, the department has an obligation to regularly interact with the employee to determine if the employee can be reasonably accommodated to return to work. Such interaction, and offers to interact, must be documented in the employee's return-to-work file.

If an appropriate interactive meeting has been scheduled and the employee fails to meet or provide appropriate medical documentation for his/her absence from the meeting, the department should direct the employee to return to work the next business day. If the employee does not report to work for three days, the department may commence implied resignation procedures under County Code Section 5.12.020. If the employee indicates he/she cannot return to work, other options including medical re-evaluations through the CEO, must be considered.

**Interdepartmental Placement of Employees Returning to Work Following Approved Leave**

Employees returning to work should be placed either in their own department or, if no position in their department is suitable, in another department, to a position consistent with their knowledge, skills and abilities, taking into consideration work restrictions, if any. Under provisions of Civil Service Rule 15, the Director of Personnel may authorize an interdepartmental placement (loan) of an employee or change the classification of an employee. See PPG 621 for more information on interdepartmental placements.

**Disability Retirement**

For Retirement Plans A, B, C, and D, the department may file for disability retirement benefits on behalf of an eligible employee according to the LACERA rules. An employee is deemed eligible by the LACERA Board of Retirement based on a determination that the employee is permanently incapacitated and unable to perform their regular job duties.

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## **Medical Separation**

For Retirement Plan E participants, the department may request approval from the CEO, Risk Management Branch to medically separate the employee from County service when the:

- Employee's condition meets Social Security Disability criteria, and
- Employee has indicated no interest in participating in an interactive meeting or discussing reasonable accommodations, and/or
- Employee's treating physician or County's Occupational Health Program (OHP) has indicated that the employee will probably never be able to return to gainful employment.

For any other medical separation issues consult with CEO Risk Management Branch.

## **AUTHORITY**

County Code: Title 5 – Personnel, Chapter 5.31 - Health, Safety Program and Workers' Compensation; Sections 5.31.030, 5.31.040, 5.31.060, and 5.31.070  
County Code Section 5.12.020, Resignation – Procedures and methods  
County Code Section 5.16.030, Absence because of sickness must be reported  
County Code Section 5.16.040, Abuse of Sick Leave – Penalty  
Civil Service Rule 9.07, Medical reevaluation  
Civil Service Rule 9.08, Partially or fully incapacitated employees  
Civil Service Rule 15.02, Interdepartmental transfers  
Civil Service Rule 15.03, Change of classification  
Civil Service Rule 16.02, Leaves of absence without pay  
Department of Human Resources Policies, Procedures and Guidelines No. 621  
California Fair Employment and Housing Act  
Federal Americans with Disabilities Act (ADA)

The Director of Personnel has delegated responsibility for administering the Countywide Environmental Health and Safety Program to the Chief Executive Office (CEO).

The CEO administers and provides policy direction for the Countywide Environmental Health and Safety Program and Employee Service Rehabilitation Program based on delegated authority from the Director of Personnel.

## **DATE ISSUED**

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**APPENDIX A**

**EMPLOYEE PROFILE**

**I/A NON I/A**

**(Circle One)**

**PERSONAL INFORMATION**

Employee Name

Employee Number

Payroll Title

Home Address

Home Phone

Other Contact Number

**LEAVE HISTORY**

Working

☐ Yes ☐ No

Date of Injury/Illness

Leave Start Date

Leave End Date

Claim Status: ☐ Delayed \_\_\_\_\_ ☐ Denied \_\_\_\_\_ ☐ Accepted Date \_\_\_\_\_ ☐ Closed \_\_\_\_\_  
Date Date Date Date

Benefits : ☐ TTD ☐ Post TD ☐ PD ☐ STD ☐ LTD ☐ Other \_\_\_\_\_

**WORK RESTRICTIONS**

**TEMPORARY**

☐ \_\_\_\_\_ IPM Date: \_\_\_\_\_  
Date Received

Type of Accommodation

☐ U&C \_\_\_\_\_ ☐ WHA Start \_\_\_\_\_ End \_\_\_\_\_ Extended To \_\_\_\_\_  
RTW Date

**PERMANENT**

(Prior to Settlement)

☐ \_\_\_\_\_ IPM Date: \_\_\_\_\_  
Date Received

**PERMANENT**

(Settlement)

☐ \_\_\_\_\_ IPM Date: \_\_\_\_\_  
Date Received

**OTHER MED CERT**

(Non I/A)

☐ \_\_\_\_\_ IPM Date: \_\_\_\_\_  
Date Received

Conditional

☐ U&C \_\_\_\_\_ ☐ Alt/Mod \_\_\_\_\_ ☐ Assignment Start \_\_\_\_\_ End \_\_\_\_\_ Extended To \_\_\_\_\_  
RTW Date RTW Date Pending ☐ Disability Retirement ☐ Countywide Job Search ☐ Other

Assignment Dates/Duties of Assignment Location / Discussion with Supervisor:

Name of Immediate Supervisor:

Phone Number:

**Immediate Supervisor follow-up dates**

\_\_\_\_\_ Status:

\_\_\_\_\_ Date

\_\_\_\_\_ Status:

\_\_\_\_\_ Date

\_\_\_\_\_ Status:

\_\_\_\_\_ Date

\_\_\_\_\_ Status:

\_\_\_\_\_ Date

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**APPENDIX B**

**Department Name**  
**Return to Work Unit**

**ACTIVITY SHEET**

**Name:** \_\_\_\_\_ **Employee No.:** \_\_\_\_\_ **Claim No.:** \_\_\_\_\_

Date	Date Injured	Comments	Action Plan